

### **REMARKS**

In this Response, Applicants amend claims 1-6, 8, 11-12, 19, 21-22, 25-27, 32, 35 and 43, cancel claims 7, 9, 10, 18, 20, 23-24, 28-31, 33-34 and 37-42, and add new claims 44-46. New claims 44 and 45 comprise features of previous claims 32, 33, 37, 38 and 42. New claim 46 comprises features of original claims 1, 7 and 12. No new matter is introduced.

As a result of these amendments, claims 1-6, 8, 11-17, 19, 21-22, 25-27, 32, 35-36 and 43-46 are pending.

Any cancellations of, withdrawals of and amendments to the claims are being made solely to expedite prosecution of the instant application. Applicants reserve the option to prosecute further the same or similar claims in the instant or a subsequent application.

#### **Specification**

The Examiner objected to seven (7) informalities in the specification text. Those have been corrected in conformity to the examiner's suggestions.

#### **Claims to which the Examiner Objected**

The Examiner objected to dependent claim 34 because of an informality. That claim has been canceled, rendering Examiner's objection moot.

#### **Claims rejected Under Section 101**

The Examiner rejected claims 1-43 as being directed to non-statutory subject matter, for failing to produce a tangible result "because the values of the increase and decrease parameters constantly change as the values of the input change."

Independent claims 1, 12, 22 and 32 have all been amended. The amendment to claim 1 recites as the last enumerated step of the method, "permitting packets to be transmitted over the network link in accordance with the value of *cwnd*, set in step c)." Without conceding that prior claim 1 did not satisfy Section 101, Applicants respectfully suggest that this amendment adds a tangible step and thus renders moot the Examiner's rejection of this claim, and of all claims that depend from it.

The amendments to independent claims 12, 22 and 32 add similar limitations, and Applicants therefore respectfully suggest that the Examiner's rejection is now moot as to these claims, as well as to the remaining claims that depend therefrom.

Claims rejected Under Section 112

The Examiner rejected claims 1-43 as being indefinite because "since the claims do not set forth any steps involved in the method/process [of congestion control], it is unclear what method/process applicant is intending to encompass."

Applicants have amended independent claims 1 and 22 more clearly to recite the steps of methods. Claims 2-6, 8, 11 and 25-27 depend therefrom. Accordingly, Applicants respectfully suggest that the Examiner's objection with respect to these claims has been overcome.

Respectfully, Applicants suggest that insofar as independent claims 12 and 32 recite a network component, not a method, this rejection does not apply to those claims. Accordingly, Applicants respectfully suggest that claims 12 and 32, as well as claims 13-17, 19, 21, 35-36 and 43, which depend therefrom, are proper claims.

The Examiner rejected claims 1-43 as being indefinite because "the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim."

Applicants have amended independent claims 1 and 22 to recite the steps of methods. Claims 2-6, 8, 11 and 25-27 depend therefrom. Accordingly, Applicants respectfully suggest that the Examiner's objection with respect to these claims has been overcome.

Respectfully, Applicants suggest that insofar as independent claims 12 and 32 recite a network component, not a method, this rejection does not apply to those claims. Accordingly, Applicants respectfully suggest that claims 12 and 32, as well as claims 13-17, 19, 21, 35-36 and 43, which depend therefrom, are proper claims.

The Examiner rejected claims 21, 31 and 43 under § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.”

Specifically, the Examiner stated that in claims 21 and 43 Applicants “do not provide the computer readable medium to implement the executable code.”

Claims 21 and 43 have been amended to provide that the computer code is “stored on a computer readable medium.” Accordingly, Applicants respectfully suggest that the Examiner’s objection with respect to these claims has been overcome.

The Examiner further stated that claim 31 depends on claim 30, which depends on claim 22, but that claims 22 and 30 are about the method of congestion control while claim 31 is about a method of transmitting data.

Claim 31 has been canceled.

Claims rejected Under Section 103

The Examiner rejected claims 1-8, 10-19 and 21 as unpatentable over Floyd in view of Allman. The Examiner further stated that claims 9, 20, 24, 25, 27, 30, 31, 34-36, 38 and 42 would be allowable over the prior art if rewritten to overcome the Section 112, 2<sup>nd</sup> paragraph rejection and to incorporate the limitations of the base and any intervening claims.

In response,

- a) independent claim 1 has been amended to incorporate the features of claim 9, which formerly depended from it, and
- b) independent claim 12 has been amended to incorporate the features of claim 20, which formerly depended from it.

Applicants accordingly respectfully suggest that independent claims 1 and 12, and pending dependent claims 2-6, 8, 11, 13-17, 19 and 21, which depend therefrom, are now in condition for allowance.

The Examiner rejected claims 22, 23, 26, 28, 29, 32, 33, 37, 39-41 and 43 as unpatentable over Floyd in view of Allman and further in view of Hoang.

In response,

- a) independent claim 22 has been amended to incorporate the features of claim 24, which previously depended from it, and the features of intervening claim 23; and
- b) independent claim 32 has been amended to incorporate the features of claim 34, which formerly depended from it, and the features of intervening claim 33.

Applicants accordingly respectfully suggest that independent claims 22 and 32, and pending dependent claims 25-27 and 35-36 and 43, which depend therefrom, are now in condition for allowance.

#### New Claims

New claims 44 and 45 comprise features of previously-pending claims 32, 33, 37, 38 and 42 and accordingly are allowable.

New claim 46 comprises features of original claims 1, 7 and 12.

Applicants respectfully disagree with the assessment of the Examiner of Floyd in relation to original claims 1 and 12.

The Examiner's assessment appears to result from a misreading of the term "increase parameter  $\alpha_i$ ". Examiner may not have appreciated that  $\alpha_i$  in fact operates as a rate of increase parameter causing the value of  $cwnd_i$  to progressively increase by greater amounts during a congestion epoch.

As such, new claim 46 corresponds with original claim 12 but reciting "a rate of increase parameter  $\alpha_i$  " and also further clarified to recite that the value of  $\alpha_i$  is increased during each congestion epoch as a function of time from the start of a congestion epoch – previous claim 18. The effect of this increase in the rate of increase parameter as claimed in claim 46 can be seen in Figure 3 of the present specification.

The contrasts with Figure 1 of Floyd where it is clear that the value of  $cwnd_i$  during a congestion epoch increases linearly, i.e.  $\alpha_i$  is constant. Applicant also submits

that there is no suggestion in Floyd either in the passage cited by the Examiner or elsewhere in Floyd of increasing the value of  $\alpha_i$ .

Although not relied upon by the Examiner in relation to previous claims 1 and 12, it is also interesting to note that in Hoang, equation (3) in conjunction with figure 3 clearly indicate that the rate of increase of  $cwnd_i$  during a congestion epoch in fact decreases during the epoch.

Thus not only does Hoang not teach the present invention as claimed in claim 46, but in fact teaches away from the present invention.

Applicant therefore suggests that claim 46 is both novel and inventive vis-à-vis the cited art and therefore requests its allowance.

### **CONCLUSION**

In view of the foregoing amendments and remarks, Applicants respectfully submit that the pending claims 1-6, 8, 11-17, 19, 21-22, 25-27, 32, 35-36 and 43-46 are in condition for allowance. Early and favorable consideration is therefore respectfully solicited. If there are any remaining issues or the Examiner believes that a telephone conversation with Applicants' attorney would be helpful in expediting the prosecution of this application, the Examiner is invited to call the undersigned at 617-832-1118. Should an extension of time be required, Applicants hereby petition for same and request that the extension fee and any other fee required for timely consideration of this application be charged to Deposit Account, **No. 06-1448**.

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Respectfully submitted,

By / Stephen B. Deutsch /

Stephen B. Deutsch

Registration No.: 46,663

FOLEY HOAG LLP

155 Seaport Blvd

Boston, Massachusetts 02210

(617) 832-1118

Attorney for Applicant